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EXAMINER

NGUYEN, TOAN D

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/016,867	Applicant(s) SHAFFER ET AL.	
	Examiner TOAN D. NGUYEN	Art Unit 2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15-21 and 23-39 is/are rejected.
- 7) ☒ Claim(s) 14 and 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 07/17/08 have been fully considered but they are not persuasive.

The applicant argues on page 12, third paragraph that there is no disclosure in Ruberg of "determining that the interruption in keep alive signals resulted from failure of the first endpoint and not as result of a voluntary disconnection," as recited in amended claim 1. The examiner disagrees. Ruberg clearly teaches a heartbeat message may be sent in both directions between the peer device managers and in both directions between each device manager and their respective desktop units (endpoints means). Ruberg teaches at col. 15, lines 21-32 in the cited passage: "...The heart beat happens e.g., when a connection is silent (determining that the interruption in keep alive signals means) in one direction for a certain period of time. After a predetermined number of heart beat time periods have expired without hearing (determining that the interruption in keep alive signals means), functionality of the remote unit may be assumed to be non-functional and the connections between the local and the remote units may be closed." Ruberg teaches further at col.15, lines 33-37 in the cited passage: "...where a desktop unit (endpoint means) fails (e.g., power off, disconnected)(failure of the first endpoint and not as result of a voluntary disconnection means), ..."

The applicant argues on page 13, second paragraph that independent claims 16 and 32 includes certain features and operations that are analogous to the features and operations recited in claim 1, and for reasons analogous to those discussed above with

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regard to claim 1, claims 16 and 32 are allowed. The examiner disagrees. Claims 16 and 32 includes certain features and operations that are analogous to the features and operations recited in claim 1, therefore, the examiner refers to the same response with respect to claim 1 above.

The applicant argues with respect to claim 7 on page 14, second paragraph that there is no disclosure in Manzardo that such information is used to perform steps analogous to Applicant's recited steps:

determining the user associated with the first user endpoint using the directory,
determining that the third user endpoint is also associated with the user,
selecting the third user endpoint for the communication session, and
transferring the communication session with the second user endpoint from the first user endpoint to a third user endpoint.

The examiner disagrees. Manzardo teaches at page 8, paragraph [0082] in the cited passage: "The main server 102 also may include or store information (directory means) regarding connections, gateways, interfaces, other client connection devices, calls, addresses, user devices (determining the user associated with the first user endpoint using the directory; determining that the third user endpoint is also associated with the user). Manzardo teaches further at page 5, paragraph [0053](figure 2, reference 212, "Stand-by server establishes connection(s) with client connection devices) in the cited passage: "During a step 212, the stand-by server 104 establishes connections with the gateway 120 and/or the interface 117 (user endpoints 112, 114, 116)(selecting the third user endpoint for the communication session, and transferring

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the communication session with the second user endpoint from the first user endpoint to a third user endpoint means).

The applicant argues with respect to claim 6 on page 17, third paragraph that Ruberg does not relate to the failure of such a desktop unit. The examiner disagrees. The examiner refers to the same response with respect to claim 1 above. The applicant argues further that neither Manzardo nor Ruberg relate to the failure of endpoints but instead each relate to the failure of server, the combination of these features cannot be said to disclose "identifying a third user endpoint as being associated with the first user" and transferring the communication session with the second user endpoint from the first user endpoint to a third user endpoint," as recited in claim 6. The examiner disagrees. The examiner refers to the same response with respect to claim 7 above.

The applicant argues on page 18, third paragraph that independent claims 26 and 39 include certain features and operations that are analogous to the features and operation recited in claim 1. Therefore, the examiner refers to the same response with respect to claim 1.

The applicant argues on page 20, first paragraph that Berry does not disclose, teach, or suggest "in response to the user-generated message, reestablishing the communication session between the second endpoint and the user of the first endpoint," as recited in claim 11. The applicant admitted that Berry discloses that the devices may include workstations or other user-devices, and argues that there is no disclosure that the user-devices are used to send user-generated messages during the negotiation of the exchange rate. The examiner disagrees. Manzardo teaches at page 3, paragraph

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[0031] in the cited passage: "...some other device (notebook computer, workstation or other user-device means), personnel or software (e.g., network manager, IT personnel) may send or provide configuration information...).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-2, 4, 6-8, 16-18, 21, 23-24, 26, 28-29, 31-33, 35-37 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manzardo (US 2003/0061319) in view of Ruberg et al. (US 7,085,805).

For claim 1, Manzardo discloses method and apparatus for providing back-up capability in a communication system, comprising:

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establishing a communication session between a first endpoint (figure 1, reference 120) and a second endpoint (figure 1, references 112, 114 and 116) (figure 2, reference 202, page 4, paragraph [0044], lines 1-5);

receiving keep alive signals from the first endpoint (figure 2, reference 204)(page 5, paragraph [0045], lines 8-13);

detecting an interruption in the keep alive signals (page 5, paragraph [0051] lines 6-10); and

maintaining a connection with the second endpoint after the interruption (page 5, paragraph [0053], lines 1-3).

However, Manzardo does not expressly disclose:

determining that the interruption in keep alive signals resulted from failure of the first endpoint and not as result of a voluntary disconnection by a user of the first endpoint; and

reestablishing the communication session between the first endpoint and the second endpoint if the keep alive signals resume within a predetermined time period.

In an analogous art, Ruberg et al. disclose:

determining that the interruption in keep alive signals (col. 15, lines 18-29) resulted from failure of the first endpoint and not as result of a voluntary disconnection by a user of the first endpoint (col. 15, lines 33-34); and

reestablishing the communication session between the first user endpoint and the second user endpoint if the keep alive signals resume within a predetermined time period (col. 15, lines 37-41).

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One skilled in the art would have recognized the determining that the interruption in keep alive signals resulted from failure of the first endpoint and not as result of a voluntary disconnection by a user of the first endpoint, and would have applied Ruberg et al.'s desktop unit recovers in Manzardo's establishing a communication session. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Ruberg et al.'s remote device management in grouped server environment in Manzardo's method and apparatus for providing back-up capability in a communication system with the motivation being recovery is accomplished in less than a heartbeat time period (col. 15 lines 40-41).

For claim 2, Manzardo discloses further comprising transferring the communication session with the second endpoint from the first endpoint to a third endpoint if the keep alive signals do not resume within the predetermined time period (page 5, paragraph [0049]).

For claim 4, Manzardo discloses wherein the first endpoint is associated with a user in a directory relating a plurality of users to a plurality of endpoints, the third endpoint is also associated with the user in the directory; and the method further comprises: determining the user associated with the first endpoint using the directory; and determining that the third endpoint is also associated with the user (page 8, paragraph [0082]).

For claim 6, Manzardo discloses method and apparatus for providing back-up capability in a communication system, comprising:

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establishing a communication session between a first endpoint (figure 1, reference 120) and a second endpoint (figure 1, references 112, 114 and 116) (figure 2, reference 202, page 4, paragraph [0044], lines 1-5);

receiving keep alive signals from the first endpoint (figure 2, reference 204)(page 5, paragraph [0045], lines 8-13);

detecting an interruption in the keep alive signals (page 5, paragraph [0051] lines 6-10); and

maintaining a connection with the second endpoint after the interruption (figure 1, references 112, 114 and 116, page 5, paragraph [0053], lines 1-3);

identify a third endpoint as being associated with the first end point (figure 1, references 112, 114 and 116, page 5, paragraph [0053]); and

transferring the communication session with the second endpoint from the first endpoint to a third endpoint (figure 1, references 112, 114 and 116, paragraph [0053]).

However, Manzardo does not expressly disclose user endpoint, the first endpoint associated with a first user and the second endpoint associated with a second user. In an analogous art, Ruberg et al. disclose user endpoint, the first endpoint associated with a first user and the second endpoint associated with a second user (figure 2, col. 3, line 55).

One skilled in the art would have recognized the user endpoint, the first endpoint associated with a first user and the second endpoint associated with a second user, and would have applied Ruberg et al.'s computer 50 in Manzardo's establishing a communication session. Therefore, it would have been obvious to one of ordinary skill in

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the art at the time of the invention, to use Ruberg et al.'s remote device management in grouped server environment in Manzardo's method and apparatus for providing back-up capability in a communication system with the motivation being to introduce user input to computer system 50 (col. 3, line 55).

For claims 7-8, Manzardo discloses method and apparatus for providing back-up capability in a communication system, comprising:

establishing a communication session between a first endpoint (figure 1, reference 120) and a second endpoint (figure 1, references 112, 114 and 116) (figure 2, reference 202, page 4, paragraph [0044], lines 1-5);

receiving keep alive signals from the first endpoint (figure 2, reference 204)(page 5, paragraph [0045], lines 8-13);

detecting an interruption in the keep alive signals (page 5, paragraph [0051] lines 6-10); and

maintaining a connection with the second endpoint after the interruption (figure 1, references 112, 114 and 116, page 5, paragraph [0053], lines 1-3);

identify a third endpoint as being associated with the first end point (figure 1, references 112, 114 and 116, page 5, paragraph [0053]); and

transferring the communication session with the second endpoint from the first endpoint to a third endpoint (figure 1, references 112, 114 and 116, paragraph [0053])

wherein

the first endpoint is associated with a user in a directory relating a plurality of users to a plurality of endpoints (page 8, paragraph [0082]);

the third user endpoint is also associated with the user in the directory; and the method further comprises determining the user associated with the first user endpoint using the directory; determining that the third endpoint is also associated with the user; and selecting the third user endpoint for the communication session user (page 8, paragraph [0082]).

However, Manzardo does not expressly disclose user endpoint, the first endpoint associated with a first user and the second endpoint associated with a second user. In an analogous art, Ruberg et al. disclose user endpoint, the first endpoint associated with a first user and the second endpoint associated with a second user (figure 2, col. 3, line 55).

One skilled in the art would have recognized the user endpoint, the first endpoint associated with a first user and the second endpoint associated with a second user, and would have applied Ruberg et al.'s computer 50 in Manzardo's establishing a communication session. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Ruberg et al.'s remote device management in grouped server environment in Manzardo's method and apparatus for providing back-up capability in a communication system with the motivation being to introduce user input to computer system 50 (col. 3, line 55).

For claims 16, 23 and 24, Manzardo discloses method and apparatus for providing back-up capability in a communication system, comprising:

an interface (figure 8, reference 352, page 7, paragraph [0076], line 4) operable to receive keep alive signals from a first endpoint (figure 1, reference 120) in a

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communication session with a second endpoint (figure 1, references 112, 114 and 116) (figure 2, reference 204)(page 5, paragraph [0045], lines 8-13), and

a processor (figure 8, reference 350, page 7, paragraph [0076], lines 1-2)

operable to:

detect an interruption in the keep alive signals (page 5, paragraph [0051] lines 6-10); and

maintain a connection with the first endpoint after the interruption (figure 1, references 112, 114 and 116, page 5, paragraph [0053], lines 1-3).

However, Manzardo does not expressly disclose:

determining that the interruption in keep alive signals resulted from failure of the first endpoint and not as result of a voluntary disconnection by a user of the first endpoint; and

reestablishing the communication session between the first endpoint and the second endpoint if the keep alive signals resume within a predetermined time period.

In an analogous art, Ruberg et al. disclose:

determining that the interruption in keep alive signals resulted from failure of the first endpoint and not as result of a voluntary disconnection by a user of the first endpoint (col. 15, lines 33-34); and

reestablishing the communication session between the first user endpoint and the second user endpoint if the keep alive signals resume within a predetermined time period (col. 15, lines 37-41).

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One skilled in the art would have recognized the determining that the interruption in keep alive signals resulted from failure of the first endpoint and not as result of a voluntary disconnection by a user of the first endpoint, and would have applied Ruberg et al.'s desktop unit recovers in Manzardo's establishing a communication session. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Ruberg et al.'s remote device management in grouped server environment in Manzardo's method and apparatus for providing back-up capability in a communication system with the motivation being recovery is accomplished in less than a heartbeat time period (col. 15, lines 40-41).

For claim 17, Manzardo discloses wherein the processor is further operable to transfer the communication session with the second endpoint from the first endpoint to a third endpoint if the keep alive signals do not resume within the predetermined time (page 5, paragraph [0049]).

For claim 18, Manzardo discloses wherein the communication device comprises a call manager (page 3, paragraph [0031]).

For claim 21, Manzardo discloses wherein transferring the communication session comprises determining an alternate endpoint associated with a user of the first endpoint; and communicating a message to a call manager instructing the call manager to establish the communication session between the second endpoint and the alternate endpoint (page 5, paragraph [0049]).

For claim 26, Manzardo discloses method and apparatus for providing back-up capability in a communication system, comprising:

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an interface (figure 8, reference 352, page 7, paragraph [0076], line 4) operable to receive keep alive signals from a first endpoint in a communication session with a second endpoint (figure 1, references 112, 114 and 116) (figure 2, reference 204)(page 5, paragraph [0045], lines 8-13); and

a processor (figure 8, reference 350, page 7, paragraph [0076], lines 1-2) operable to:

detect an interruption in the keep alive signals from the endpoint (page 5 paragraph [0051], lines 6-10);

maintaining a connection with the second endpoint after the interruption (figure 1, references 112, 114 and 116, page 5, paragraph [0053], lines 1-3);

identify a third endpoint as being associated with the first end point (figure 1, references 112, 114 and 116, page 5, paragraph [0053]); and

transferring the communication session with the second endpoint from the first endpoint to the third endpoint (figure 1, references 112, 114 and 116, paragraph [0053]).

However, Manzardo does not expressly disclose user endpoint, the first endpoint associated with a first user and the second endpoint associated with a second user. In an analogous art, Ruberg et al. disclose user endpoint, the first endpoint associated with a first user and the second endpoint associated with a second user (figure 2, col. 3, line 55).

One skilled in the art would have recognized the user endpoint, the first endpoint associated with a first user and the second endpoint associated with a second user, and

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would have applied Ruberg et al.'s computer 50 in Manzardo's establishing a communication session. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Ruberg et al.'s remote device management in grouped server environment in Manzardo's method and apparatus for providing back-up capability in a communication system with the motivation being to introduce user input to computer system 50 (col. 3, line 55).

For claims 28-29, Manzardo discloses wherein the processor is further to operable to store status information (figure 8, reference 360) for the first user endpoint, and use the status information to resume the communication session with the third user endpoint from approximately a point at which the interruption in keep alive signals was detected (page 5, paragraph [0051], and page 8, paragraph [0081]).

For claim 31, Manzardo discloses wherein the processor is further operable to transfer the communication session automatically in response to a message from the first user endpoint (page 5, paragraph [0049]).

For claim 32, Manzardo discloses method and apparatus for providing back-up capability in a communication system, comprising:

establishing a communication session between a first endpoint (figure 1, reference 120) and a second endpoint (figure 1, references 112, 114 and 116) (figure 2, reference 202, page 4, paragraph [0044], lines 1-5);

receiving keep alive signals from the first endpoint (figure 2, reference 204)(page 5, paragraph [0045], lines 8-13);

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detecting an interruption in the keep alive signals (page 5, paragraph [0051] lines 6-10); and

maintaining a connection with the second endpoint after the interruption (page 5, paragraph [0053], lines 1-3).

However, Manzardo does not expressly disclose:

determining that the interruption in keep alive signals resulted from failure of the first endpoint and not as result of a voluntary disconnection by a user of the first endpoint; and

reestablishing the communication session between the first endpoint and the second endpoint if the keep alive signals resume within a predetermined time period.

In an analogous art, Ruberg et al. disclose:

determining that the interruption in keep alive signals resulted from failure of the first endpoint and not as result of a voluntary disconnection by a user of the first endpoint (col. 15, lines 33-34); and

reestablishing the communication session between the first user endpoint and the second user endpoint if the keep alive signals resume within a predetermined time period (col. 15, lines 37-41).

One skilled in the art would have recognized the determining that the interruption in keep alive signals resulted from failure of the first endpoint and not as result of a voluntary disconnection by a user of the first endpoint, and would have applied Ruberg et al.'s desktop unit recovers in Manzardo's establishing a communication session.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the

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invention, to use Ruberg et al.'s remote device management in grouped server environment in Manzardo's method and apparatus for providing back-up capability in a communication system with the motivation being recovery is accomplished in less than a heartbeat time period (col. 15, lines 40-41).

For claim 33, Manzardo discloses wherein the logic is further operable to perform the step of transferring the communication session with the second endpoint from the first endpoint to a third endpoint if the keep alive signals do not resume within the predetermined time period (page 5, paragraph [0049]).

For claim 35, Manzardo discloses wherein the first endpoint is associated with a user in a directory relating a plurality of users to a plurality of endpoints, the third endpoint is also associated with the user in the directory; and the method further comprises: determining the user associated with the first endpoint using the directory; and determining that the third endpoint is also associated with the user (page 8, paragraph [0082]).

For claim 36, Manzardo discloses method and apparatus for providing back-up capability in a communication system, comprising:

establishing a communication session between a first endpoint (figure 1, reference 120) and a second endpoint (figure 1, references 112, 114 and 116) (figure 2, reference 202, page 4, paragraph [0044], lines 1-5);

receiving keep alive signals from the first endpoint (figure 2, reference 204)(page 5, paragraph [0045], lines 8-13);

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detecting an interruption in the keep alive signals (page 5, paragraph [0051] lines 6-10); and

maintaining a connection with the second endpoint after the interruption (figure 1, references 112, 114 and 116, page 5, paragraph [0053], lines 1-3);

identify a third endpoint as being associated with the first end point (figure 1, references 112, 114 and 116, page 5, paragraph [0053]); and

transferring the communication session with the second endpoint from the first endpoint to a third endpoint (figure 1, references 112, 114 and 116, paragraph [0053]).

However, Manzardo does not expressly disclose user endpoint, the first endpoint associated with a first user and the second endpoint associated with a second user. In an analogous art, Ruberg et al. disclose user endpoint, the first endpoint associated with a first user and the second endpoint associated with a second user (figure 2, col. 3, line 55).

One skilled in the art would have recognized the user endpoint, the first endpoint associated with a first user and the second endpoint associated with a second user, and would have applied Ruberg et al.'s computer 50 in Manzardo's establishing a communication session. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Ruberg et al.'s remote device management in grouped server environment in Manzardo's method and apparatus for providing back-up capability in a communication system with the motivation being to introduce user input to computer system 50 (col. 3, line 55).

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For claim 37, Manzardo discloses wherein the first endpoint is associated with a user in a directory relating a plurality of users to a plurality of endpoints, the third endpoint is also associated with the user in the directory; and the method further comprises: determining the user associated with the first endpoint using the directory; and determining that the third endpoint is also associated with the user (page 8, paragraph [0082]).

For claim 39, Manzardo discloses method and apparatus for providing back-up capability in a communication system, comprising:

means for establishing a communication session between a first endpoint (figure 1, reference 120) and a second endpoint (figure 1, references 112, 114 and 116) (figure 2, reference 202, page 4, paragraph [0044], lines 1-5);

means for receiving keep alive signals from the first endpoint (figure 2, reference 204)(page 5, paragraph [0045], lines 8-13);

means for detecting an interruption in the keep alive signals (page 5, paragraph [0051] lines 6-10); and

means for maintaining a connection with the second endpoint after the interruption (figure 1, references 112, 114 and 116, page 5, paragraph [0053], lines 1-3);

means for identify a third endpoint as being associated with the first end point (figure 1, references 112, 114 and 116, page 5, paragraph [0053]); and

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means for transferring the communication session with the second endpoint from the first endpoint to a third endpoint (figure 1, references 112, 114 and 116, paragraph [0053]).

However, Manzardo does not expressly disclose user endpoint, the first endpoint associated with a first user and the second endpoint associated with a second user. In an analogous art, Ruberg et al. disclose user endpoint, the first endpoint associated with a first user and the second endpoint associated with a second user (figure 2, col. 3, line 55).

One skilled in the art would have recognized the user endpoint, the first endpoint associated with a first user and the second endpoint associated with a second user, and would have applied Ruberg et al.'s computer 50 in Manzardo's establishing a communication session. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Ruberg et al.'s remote device management in grouped server environment in Manzardo's method and apparatus for providing back-up capability in a communication system with the motivation being to introduce user input to computer system 50 (col. 3, line 55).

5. Claims 3, 5, 25, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manzardo (US 2003/0061319) in view of Ruberg et al. (US 7,085,805) further in view of Liljestrand et al. (US 6,853,714).

For claims 3, 5, 25 and 34, Manzardo disclose notifying the second endpoint that the first endpoint has failed (page 5, paragraph [0051]).

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However, Manzardo in view of Ruberg et al. does not expressly disclose communicating a message to the first endpoint instructing the first endpoint to reboot. In an analogous art, Liljestrand et al. disclose communicating a message to the first endpoint instructing the first endpoint to reboot (col. 10, lines 52-53 as set forth in claims 3 and 34).

Liljestrand et al. disclose wherein the first endpoint comprises a voice-over-IP (VoIP) telephone; and the third endpoint comprises a cellular telephone associated with a user of the VoIP telephone (col. 16, line 67, and col. 21, line 66 as set forth in claim 25).

One skilled in the art would have recognized the communicating a message to the first endpoint instructing the first endpoint to reboot, and would have applied Liljestrand et al.'s control module 166 in Manzardo's establishing a communication session. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Liljestrand et al.'s apparatus and method for providing enhanced telecommunications services in Manzardo's method and apparatus for providing back-up capability in a communication system with the motivation being to cause the hot standby redundant softswitch 160b to take control (col. 10, lines 53-54).

6. Claims 9-10, 27, 30 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manzardo (US 2003/0061319) in view of Ruberg et al. (US 7,085,805) further in view Korpi et al. (US 6,785,223).

For claims 9, 27, and 30, Marizardo in view of Ruberg et al. does not expressly disclose wherein the first and third endpoints are interactive voice response (IVR)

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servers. In an analogous art, Korpi et al. disclose wherein the first and third endpoints are interactive voice response (IVR) servers (col. 3, lines 8-9 as set forth in claims 9 and 27).

Korpi et al. disclose wherein the first endpoint is coupled to an Internet protocol (IP) network carrying packets over User Datagram Protocol (UDP); the communication device is coupled to the IP network; and the keep alive signals comprise UDP signaling information (col. 4, line 60, and col. 6, lines 44-47 as set forth in claim 30).

One skilled in the art would have recognized the interactive voice response (IVR) servers, and would have applied Korpi et al.'s servers in Manzardo's establishing a communication session. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Korpi et al.'s system and method for restarting of signaling entities in H.323-based realtime communication networks in Manzardo's method and apparatus for providing back-up capability in a communication system with the motivation being to provide failure recovery (col. 3, lines 9-11).

For claim 10, Marizardo discloses storing status information (figure 8, reference 360) for the first endpoint, and using the status information to resume the communication session with the third endpoint from approximately a point at which the interruption in keep alive signals was detected (page 5, paragraph [0051], and page 8, paragraph [0081]).

For claim 38, Marizardo discloses storing status information (figure 8, reference 360) for the first endpoint, and using the status information to resume the communication session with the third endpoint from approximately a point at which the

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interruption in keep alive signals was detected (page 5, paragraph [0051], and page 8, paragraph [0081]).

However, Manzardo does not disclose the first and third endpoints are interactive voice response servers (IVRs). In an analogous art, Korpi et al. disclose wherein the first and third endpoints are interactive voice response (IVR) servers (col. 3, lines 8-9).

One skilled in the art would have recognized the interactive voice response (IVR) servers, and would have applied Korpi et al.'s servers in Manzardo's establishing a communication session. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Korpi et al.'s system and method for restarting of signaling entities in H.323-based realtime communication networks in Manzardo's method and apparatus for providing back-up capability in a communication system with the motivation being to provide failure recovery (col. 3, lines 9-11).

7. Claims 11-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manzardo (US 2003/0061319) in view of Berry et al. (US 7,023,876).

For claims 11-13, Manzardo discloses method and apparatus for providing back-up capability in a communication system, comprising:

establishing a communication session between a first endpoint (figure 1, reference 120) and a second endpoint (figure 1, references 112, 114 and 116) (figure 2, reference 202, page 4, paragraph [0044], lines 1-5).

Manzardo discloses wherein the step of establishing comprises transferring the communication session with the second endpoint from the first endpoint to a third

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endpoint associated with the user of the first endpoint (figure 1, references 112, 114 and 116, page 5, paragraph [0053] as set forth in claim 12).

However, Manzardo does not expressly disclose:

receiving from a user of the first endpoint a message to reestablish the communication session, and

in response to the message, reestablishing the communication session between the second endpoint and the user of the first endpoint.

In an analogous art, Berry et al. disclose:

receiving from a user of the first endpoint (figure 1, reference 100) a message to reestablish the communication session (col. 13, lines 53-54), and

in response to the message, reestablishing the communication session between the second endpoint and the user of the first endpoint (col. 9, lines 35-39).

Berry et al. disclose wherein the step of reestablishing comprises: instructing the first endpoint to reset (col. 12, lines 60-65), waiting a predetermined period of time for the first endpoint to reset; and reestablishing the communication session between the first endpoint and the second endpoint if the first endpoint successfully resets during the predetermined period of time (col. 9, lines 35-39 as set forth in claim 13).

One skilled in the art would have recognized the receiving from a user of the first endpoint a message to reestablish the communication session, and in response to the message, reestablishing the communication session between the second endpoint and the user of the first endpoint, and would have applied Berry et al.'s re-establish the connection in Manzardo's establishing a communication session. Therefore, it would

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have been obvious to one of ordinary skill in the art at the time of the invention, to use Berry et al.'s point-to-point protocol in Manzardo's method and apparatus for providing back-up capability in a communication system with the motivation being to re-establish the connection (col. 9, line 39).

For claim 15, Manzardo discloses wherein the steps are performed by logic embodied in a computer readable medium (figure 8, page 7, paragraph [0076]).

8. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Manzardo (US 2003/0061319) in view of Ruberg et al. (US 7,085,805) further in view of Berry et al. (US 7,023,876).

For claim 19, Manzardo in view of Ruberg et al. does not disclose wherein the communication session comprises a point-to-point communication session. In an analogous art, Berry et al. disclose wherein the communication session comprises a point-to-point communication session (figure 1, col. 4 line 65 to col. 5 line 5).

One skilled in the art would have recognized the communication session comprises a point-to-point communication session, and would have applied Berry et al.'s re-establish the connection in Manzardo's establishing a communication session. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Berry et al.'s point-to-point protocol in Manzardo's method and apparatus for providing back-up capability in a communication system with the motivation being to provide reliable communication exchange between a pair of devices (col. 4 lines 5-6).

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9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Manzardo (US 2003/0061319) in view of Ruberg et al. (US 7,085,805) Berry et al. (US 7,023,876) further in view of Korpi et al. (US 6,785,223).

For claim 20, Manzardo in view of Ruberg et al. and Berry et al. does not disclose wherein the point-to-point communication session is established using Session Initiation Protocol (SIP) or H.323. In an analogous art, Korpi et al. disclose wherein the point-to-point communication session is established using Session Initiation Protocol (SIP) or H.323 (col. 3 lines 62-66).

One skilled in the art would have recognized the wherein the point-to-point communication session is established using Session Initiation Protocol (SIP) or H.323, and would have applied Korpi et al.'s H.323 in Manzardo's establishing a communication session. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Korpi et al.'s system and method for restarting of signaling entities in H.323-based realtime communication networks in Manzardo's method and apparatus for providing back-up capability in a communication system with the motivation being to carry real-time voice, video, and/or data (col. 3 lines 62-63).

Allowable Subject Matter

10. Claims 14 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

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11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **TOAN D. NGUYEN** whose telephone number is (571)272-3153. The examiner can normally be reached on M-F (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Firmin Backer** can be reached on 571-272-6703. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. D. N./
Examiner, Art Unit 2416

/FIRMIN BACKER/
Supervisory Patent Examiner, Art Unit 2416